

NEIFELD DOCKET NO: PIP-53-FITZ-US

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF: FITZPATRICK

CONF. NO: 9232

GROUP ART UNIT: 3628

SERIAL NO: 09/730,592

FILED: December 7, 2000

EXAMINER: CHARLES

FOR: Price Paid Database

ASSISTANT COMMISSIONER FOR PATENTS

ALEXANDRIA, VA 22213-1450

REMARKS

In response to the notice of non-compliant appeal brief mailed September 25, 2006, the applicant submits these remarks.

In response to the notification of non-compliant appeal brief mailed September 25, 2006, the appellant submits that the notification was in error, as the examiner now also agrees.

The notification of non-compliant appeal brief mailed September 25, 2006 was in response to the appeal brief filed on June 16, 2005, not the subsequently filed appeal brief filed July 7, 2006. Thus, the notification was not based upon the most recently filed brief.

On June 27, 2006, the USPTO mailed an order returning undocketed appeal to examiner. On July 7, 2006, the applicant had filed an appeal brief in response to the order returning the undocketed appeal to examiner. The July 7, 2006 appeal brief corrected deficiencies identified in the order dated June 27, 2006 in the "summary of claimed subject matter" section. These deficiencies in the "summary of claimed subject matter" section were apparently also the reason for the notification of non-compliant appeal brief mailed September 25, 2006.

My associate, Bruce Margulies, spoke with Examiner Charles by phone on October 5, 2006. He verified with Examiner Charles that the appeal brief filed July 7, 2006 addressed the defects in the notification and order. Accordingly, the notification of non-compliant appeal brief mailed September 25, 2006 is in error in that it identifies non-existent deficiencies.

The applicant submits these remarks as an appropriate correction as specified in the notification of non-compliant appeal brief mailed September 25, 2006 in order to avoid dismissal of the appeal.

10/16/2006

DATE

Respectfully Submitted,

/Richard Neifeld #35,299/

Richard A. Neifeld

Attorney of Record

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